



Sales Tax Exemption for Clothing and Footwear Effective April 1, 2011, through March 31, 2012

Chapter 57 of the Laws of 2010 amended the sales and use tax law to provide that clothing sold for less than \$55 per item and footwear sold for less than \$55 per pair will be exempt from the **state's** sales and use taxes beginning April 1, 2011, and ending March 31, 2012.

For the period April 1, 2011, through March 31, 2012, clothing, footwear, and items used to make or repair clothing (clothing and footwear) sold for less than \$55 per item of clothing or per pair of footwear will be exempt from the state's 4% sales tax and the state imposed 3/8% sales tax in the MCTD. In addition, the law provides that the state's prior exemption for clothing and footwear sold for less than \$110 will be restored on April 1, 2012. That exemption had been in effect prior to October 1, 2010.

County and city clothing and footwear sales tax exemption

The following descriptions provide the various exemption dates for the counties and cities (localities) that elected the clothing and footwear exemptions for their local sales tax. (Certain localities have not elected to exempt clothing and footwear from their local sales tax.)

Certain localities previously elected the less-than-\$110 exemption. Those local exemptions remain in effect. Accordingly, clothing and footwear sold for less than \$55 in localities with the less-than-\$110 exemption is exempt from both state and local sales taxes from April 1, 2011, through March 31, 2012. In addition, clothing and footwear sold for \$55 or more but less than \$110 per item of clothing or per pair of footwear is exempt from local tax but not from state tax. **Note:** Localities have the option to repeal the less-than-\$110 exemption effective March 1, 2012.

Columbia County elected to exempt clothing and footwear sold for less than \$55. That exemption is effective **April 1, 2011, through March 31, 2012**. Columbia County's less-than-\$110 exemption resumes April 1, 2012.

Publication 718-C, *Sales and Use Tax Rates on Clothing and Footwear*, contains the current listings of which counties and cities exempt clothing and footwear, as well as the applicable rates of tax on clothing and footwear in counties and cities that do not exempt.

Transitional provisions relating to clothing and footwear sales

Orders for clothing, footwear, and items used to make or repair clothing

Merchandise that is ordered by mail, telephone, the Internet, or e-mail, is taxed at the rate in effect on the date the order is accepted by the vendor regardless of when the order will be delivered. An order is accepted by the vendor when the vendor has taken an action to fill the order. Actions to fill an order include placing an in-date stamp on a mail order or assigning an order number to a telephone order. For orders accepted on or after April 1, 2011, the exemption in effect on the date the order is accepted will apply.

Rain checks

Any purchase made with a rain check is taxed based on the sales and use tax in effect at the time of the purchase, without regard to when the rain check was issued. The exemption in effect at the time of purchase will apply.

Layaway sales

A layaway sale is a sale in which merchandise is set aside for future delivery to a customer who makes a deposit and agrees to pay the balance of the purchase price over a period of time before the merchandise is delivered. The sales price of the merchandise includes any additional charges a vendor makes for putting the merchandise on layaway. If a vendor and a customer enter into a contract for a layaway sale of eligible clothing or footwear on or after April 1, 2011, the exemption in effect will apply as long as the customer makes a deposit of at least 10% of the purchase price and the merchandise is segregated from other inventory.

Returns and exchanges

If a customer purchases eligible clothing or footwear before April 1, 2011, and pays tax on the purchase, and then returns the item and receives a store credit or is allowed to purchase an exempt item on or after April 1, 2011, through March 31, 2012, the tax paid on the purchase of the initial item can be refunded or credited. This is because the original sale was canceled.

If a customer purchases exempt clothing or footwear on or after April 1, 2011, and later returns the item for an exchange, there will be no tax due as long as the item is exchanged for another exempt item (i.e., an item of clothing eligible for the less-than-\$55 exemption is exchanged for another item eligible for that exemption, or an item of clothing eligible for the less-than-\$110 exemption is exchanged for another item eligible for that exemption). If the customer returns the original item and receives a credit or is allowed to purchase a different item that is not eligible for the exemption, the applicable sales tax will apply to the sale of the newly-purchased item. For example, if a customer buys a pair of shoes and returns them for store credit, and then uses the credit to purchase an umbrella, tax is due on the full price of the umbrella.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.